IN THE IOWA DISTRICT COURT FOR PLYMOUTH COUNTY

PLYMOUTH COUNTY BOARD OF REVIEW, Petitioner, vs. STATE OF IOWA PROPERTY ASSESSMENT APPEAL BOARD, Respondent.	NO. CVCV032018 RULING ON PETITIONER'S PETITION FOR JUDICIAL REVIEW and RESPONDENT'S MOTION TO STRIKE

This case comes before the Court pursuant to a Petition for Judicial Review filed by Petitioner, Plymouth County Board of Review ("Local Board"). On May 10, 2010, this matter came before the court for judicial review. Petitioner appeared telephonically by its attorney, Brett Ryan, and Respondent appeared telephonically by its attorney, Jessica Braunschweig-Norris. The court heard the statements and comments on the Iowa Property Assessment Appeal Board's motion to strike Appellee's attachment and heard the statements and comments of both parties concerning the merits of the case. After reviewing the record, considering Parties' arguments, and examining applicable law, the Court enters the following order.

STATEMENT OF FACTS

Catherine Hamman timely appealed the 2007 assessment of her agricultural dwelling located at 38969 C70, Kingsley, Iowa 51028 and identified as Parcel # 26-29-400-004. This property is located in the Elkhorn Township residential area and is classified as agricultural property. According to the property record card, the dwelling is a two-story frame built in 1920 with 1860 square feet of living area, is graded 4+10 with 50% depreciation, and is in normal condition. In the 2007 assessment, this property was assessed at $105,360. Hamman claimed

the assessment of the agricultural dwelling was inequitably assessed and over assessed. She argued the dwelling that was assessed at $80,200 was inequitable when compared to similar property and was over assessed by $44,030. She claimed the agricultural dwelling was only worth $36,170 rather than the $80,200 assessment value.

Hamman presented evidence of the 2007 assessment from four other properties. These other properties were all built within a similar time frame, had a similar total living area, and were all agricultural dwellings. The assessed value of the dwellings on the properties ranged from $23,330 to $47,030. The total assessment value of these properties ranged from $51,460 to $71,040.

The Plymouth County assessor sent a memorandum to the Local Board. This letter stated the properties submitted as comparable were in poorer condition than the Hamman residence, and some had been abandoned or used for storage. He also noted the comparable properties presented by Hamman did not list market values. In this memorandum the county assessor included sales of rural properties. The sales prices on these properties ranged from $54,900 to $126,000. The assessed values on the properties ranged from $55,920 to $128,920.

Without a hearing on the matter, the Local Board considered all the data presented to it and lowered the value of the property assessment. At the May 29, 2007, meeting, a committee member on the Local Board made a motion to reduce the value of Hamman's agricultural dwelling by 10% and that motion passed unanimously. This reduced the assessment of the dwelling from $80,200 to $72,180, thereby decreasing the overall total assessment of the property from $105,360 to $97,340. The value of the agricultural land and the improvement value remained the same. Hamman appealed the Local Board's revised assessment to the

Property Assessment Appeal Board ("PAAB") on June 13, 2007, asserting the agricultural dwelling was over assessed and the assessment of the dwelling was inequitable.

COURSE OF PROCEEDINGS

When appealing to the PAAB, Hamman stated she had four comparable properties, and requested a dwelling valuation of $36,170. She claimed the Local Board used a 10% reduction of the original dwelling assessment rather than evaluating the comparable properties. The county assessor claimed that Hamman had not shown the assessed value was higher than the fair market value of the comparable properties, as she had not submitted the fair market value of any other property. The county assessor argued that only a market value comparison can be used and the market value of a property is not determined by reviewing the assessment value of four other properties.

At the taxpayer's request, the PAAB did not hold a hearing on the matter. On September 6, 2007, the PAAB submitted an order reducing the assessed total value from $97,340 to $83,100. The Local Board appealed the PAAB's decision to the district court. The district court remanded the case and instructed the PAAB to sufficiently state its conclusions of law and findings of fact in order to comply with Iowa law.

The PAAB issued a remanded order on June 22, 2009. The PAAB addressed whether the property was inequitably assessed under Iowa Code section 441.37(1)(*a*), and whether the property was over assessed in violation of the law pursuant to Iowa Code section 441.37(1)(*b*). The PAAB determined that it could not find the county assessor deviated from the specific method of assessment because of the lack of evidence. The taxpayer did not prove the property was inequitably assessed pursuant to Iowa Code § 441.37(1)(*a*).

However, the PAAB did find the property was over assessed. The PAAB stated the comparable properties used by Hamman did not have the grade, physical depreciation or condition of the properties. It also stated that handwritten notes on these comparable properties had little weight because the PAAB did not know where the notes came from. The PAAB then said the comparable properties the county assessor provided did not identify where the properties were located and did not have any of the other variables necessary to make comparisons between them and the property at issue. The PAAB stated the comparable properties listed by the county assessor failed to provide the value of the house versus the value of the land, and listed all different condition levels.

The PAAB reasoned that the assessed values of the comparable properties were between $28,420 and $111,420. The median levels were between $51,270 and $74,960. The PAAB then determined the market value and assessed value of the Hamman dwelling should be $60,000 because the Hamman dwelling was somewhere in the middle range as far as condition. The PAAB found the Hamman property was over assessed according to Iowa Code section 441.37(1)(*b*). The PAAB decided the total assessed value of the Hamman property should be $83,100.

The Local Board petitioned to this court for judicial review of the PAAB's remanded order on July 13, 2009, through the means prescribed in Iowa Code section 441.38.[1] The Local Board seeks a review of the determination that the taxpayer was entitled to a reduction in the total assessed value of the property to $83,100. The Local Board claims the PAAB's order is unsupported by substantial evidence. The Local Board claims a taxpayer cannot establish the

[1] The Local Board originally listed the Plymouth County Assessor and Catherine Hamman as parties to the judicial review action. The Iowa Property Assessment Appeal Board asked that these parties be dismissed. The Local Board agreed to the dismissal of the Plymouth County assessor, but not Hamman. Both the Plymouth County assessor and Catherine Hamman were dismissed as parties on August 31, 2009, by court order.

property was over assessed merely by showing the land component of the value of the property was wrong, but instead must appeal the overall assessment. The Local Board also argues the PAAB did not follow Iowa law when making its decision finding that Hamman's property was over assessed. The Local Board asks that the PAAB's decision be reversed rather than remanded.

STANDARD OF REVIEW

On judicial review of an agency's decision, the district court acts in its appellate capacity. *Greater Cmty. Hosp. v. Pub. Employment Relations Bd.*, 553 N.W.2d 869, 871 (Iowa 1996). Under Iowa Code section 17A.19(1), a person aggrieved or adversely affected by a final agency action is entitled to judicial review. Iowa Code section 17A.19(10) provides that the district court exercises its power of judicial review when it acts in an appellate capacity to review an agency action and correct errors of law. *Heartland Express, Inc. v. Terry*, 631 N.W.2d 260, 265 (Iowa 2001) (citing *IBP, Inc., v. Al-Gharib*, 604 N.W.2d 621, 627 (Iowa 2000)). The district court does not exercise de novo review. *St. Luke's Hosp. v. Gray*, 604 N.W.2d 646, 649 (Iowa 2000). The scope of judicial review is limited to the determination of whether the agency committed any errors of law specified in Iowa Code section 17A.19(10)(*a*)–(*n*). *IBP, Inc. v. Harpole*, 621 N.W.2d 410, 414 (Iowa 2001).

A reviewing court may reverse, modify, or grant other relief when the substantial rights of a person seeking judicial review were prejudiced for reasons listed in Iowa Code section 17A.19(10). The burden of proof on judicial review lies with the party challenging the agency action. Iowa Code § 17A.19(8)(*a*).

A court reviews the agency's fact findings to determine whether they are based on substantial evidence in the record before the court when viewed as a whole. *Id.* § 17A.19(10)(*f*); *Holstein Elec.*, 756 N.W.2d at 815. The Code defines substantial evidence as the

> quantity and quality of evidence that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance.

Iowa Code § 17A.19(10)(*f*)(1). A court reviews the record as a whole when it accounts for all relevant evidence in the record admitted by either party that detracts or adds to the agency's findings, including any determinations of veracity made by the agency, and the agency's explanation of why the relevant evidence supports the material findings of fact. *Id.* § 17A.19(10)(*f*)(3). The evidence need not amount to a preponderance in order to be substantial evidence, but a mere scintilla will not suffice. *Elliot v. Iowa Dep't of Transp.*, 377 N.W.2d 250, 256 (Iowa 1985). The court should not consider evidence insubstantial simply because a court may draw different conclusions from the record. *Arndt v. City of Le Claire*, 728 N.W.2d 389, 393 (Iowa 2007). When assessing whether the evidence is substantial, the court considers evidence that that supports and detracts from the agency's findings while giving deference to the credibility determinations of the agency. *City of Madrid v. Blasnitz*, 742 N.W.2d 77, 81 (Iowa 2007).

CONCLUSIONS OF LAW

A. Motion to Strike

First, this court must address the Respondent's motion to strike, as it dictates what material this court may use when reviewing the PAAB's decision. The Local Board filed its judicial review petition and brief, and the PAAB filed a brief in response. The Local Board then filed a reply brief on April 15, 2010. This brief included five pages of documents from the

Plymouth County assessor. These documents contain information about the comparable properties submitted by the county assessor. The documents demonstrate that those four properties have agricultural buildings on the property. The Local Board claims these documents were included not as evidence of value, but to demonstrate "the fallacy of the PAAB's position, and to rebut the PAAB's claim that the PAAB made its ruling with certainty that such buildings did not exist."

The legislature allows parties to appeal the decision of the PAAB. Iowa Code § 441.38(1). When an appeal is made to the district court from the PAAB pursuant to Iowa Code section 441.38, the parties must follow the directives provided by the legislature. The legislature stated that when an appeal is taken from a decision of the PAAB to the district court "[n]o new grounds in addition to those set out in the protest to the local board of review as provided in section 441.38, or in addition to those set out in the appeal to the property assessment appeal board, if applicable, can be pleaded." *Id.* The legislature also declared that although additional evidence may be introduced when appealing to the district court from the local board of review, "no new evidence to sustain those grounds may be introduced in an appeal from the property assessment appeal board to the district court." *Id.*

A party is not allowed to introduce additional evidence to the district court when appealing a decision of the PAAB. The Local Board claims the five pages attached to its reply brief were merely indicative of a flaw in the PAAB's reasoning in its appeal brief. Regardless of the purpose of the evidence, the evidence contains information that relates to the merits of the case. As such, that evidence may not be introduced before this court. **PAAB's motion to strike is sustained.**

B. Iowa's Property Assessment Laws

A property owner or aggrieved taxpayer that disagrees with the taxpayer's assessment may file a protest with the local board of review. Iowa Code § 441.37. The protest may be due to one of the following grounds: the assessment is not equitable when compared to like property, the property is assessed for more than the value authorized by law, the property is not assessable, there is an error in the assessment, or there is fraud in the assessment. *Id.* § 441.37(1). The burden of proof is upon the complainant attacking a valuation as excessive or inequitable. *Id.* § 441.21(3). However, that burden shifts to those seeking to uphold the assessment "when the complainant offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor." *Id.*

An appeal of the board of review can be taken to the property assessment appeal board or the district court. *Id.* § 441.37A. The PAAB was created to establish "a consistent, fair, and equitable property assessment appeal process." *Id.* § 421.1A(1). The property assessment appeal board can affirm, reverse, or modify a local board of review's determination. *Id.* § 421.1A(4)(*a*). It was also given the power to adopt administrative rules necessary to preserve order and regulation of the proceedings before it. *Id.* § 421.1A(4)(*f*).

The authorizing statute mandates that the board member considering the appeal determine all questions arising before the local board of review anew as it relates to the liability or amount of the property assessment. *Id.* § 441.37A(3)(*a*). The statute further requires the PAAB to consider all the evidence and to make no presumption as to the valuation of the assessment. *Id.* The decision of the PAAB is considered the final agency action. *Id.* § 441.37A(3)(*b*). The PAAB's decision can be appealed to the district court, but no new grounds may be added and no new evidence to sustain those grounds may be introduced when appealing from the property assessment appeal board to the district court. *Id.* § 441.38.

The Iowa Code also controls how property is to be assessed. It provides:

> All property subject to taxation shall be valued at its actual value . . . and, except as otherwise provided in this section, shall be assessed at one hundred percent of its actual value, and the value so assessed shall be taken and considered as the assessed value and taxable value of the property upon which the levy shall be made.
>
> The actual value of all property subject to assessment and taxation shall be the fair and reasonable market value of such property except as otherwise provided in this section.

Id. § 441.21(*a*)–(*b*). The statute defines market value as

> the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller . . . each being familiar with all the facts relating to the particular property. Sale prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value.

Id. § 441.21(*b*). The statute also states that "abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to eliminate the effect of factors which distort market value. *Id.* This method of ascertaining the fair and reasonable market value is the "sales price" method. *Riso v. Pottawattamie Bd. of Review*, 362 N.W.2d 513, 515 (Iowa 1985). The other way to ascertain the market value is the "other factors" approach. *Id.* The assessor would look at the productive and earning capacity, industrial conditions, cost, physical and functional depreciation and obsolescence and replacement cost, and other factors. *Id.* (quoting Iowa Code § 441.21(2)). An assessor may not look at only one factor when using the "other factors" approach. *Id.* The assessor also may not consider the special value or use value to the present owner, good will, or the value of the business using the property as distinguished from the value of the property as a property. Iowa Code § 441.21(2).

The legislature prefers valuations based on comparable sales over valuations using other factors. *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 779 n.2 (Iowa 2009). The

statute mandates the assessor must first use comparable sales to determine fair market value. *Id.* If the assessor is unable to do so, then the assessor may use the "other factors" valuation described in Iowa Code section 441.21(2). *Id.*

In this appeal, the Local Board challenges the PAAB's finding that the agricultural dwelling was over assessed. The Local Board also challenges whether the taxpayer can challenge, and the PAAB can subsequently determine, a dwelling structure's assessment is too high rather than evaluating whether the assessment of the property as a whole is too high. The Local Board asks for this court to reverse the PAAB's remand order and affirm the Local Board's decision. The Local Board claims this proceeding should not be remanded because the PAAB lacks sufficient evidence to make a proper evaluation of the property.

C. Over Assessment

The Local Board contends the PAAB ignored Iowa law regarding the required evidence necessary to prove over assessment. The Local Board also argues the PAAB's decision is not supported by substantial evidence. The Local Board states the PAAB did not base its decision on comparable sale prices, but instead used the "other factors" approach improperly. Finally, the Local Board believes an assessment of another property cannot be used to establish actual value in a property tax appeal.

The PAAB claims the application of assessment of the law to the facts was clearly vested in the PAAB. The PAAB also states that it cannot merely look at the total values of sale prices of rural property to determine the value of the property at issue since agricultural dwellings are valued separately from the land. The PAAB claims it was appropriate to use the assessed values of the comparable sale prices provided by the Plymouth County assessor to determine the fair market value because the assessed value would have taken the sale prices into account. The

PAAB also contends it can rely on the assessment values provided by Hamman because the properties were actually similar. After accounting for the grade and physical depreciation differences in the properties, a fair market value could be reached for the Hamman property.

A property owner that claims a property is over assessed has the burden to prove two elements: the assessment was excessive and the correct valuation of the property. *Boekeloo v. Bd. of Review of City of Clinton*, 529 N.W.2d 275, 276–77 (Iowa 1995).

Hamman submitted partial record cards for four properties she claimed were comparable. Hamman's alleged comparable properties were all in Kingsley in other townships. All the properties were classified as agricultural dwellings, built around the same timeframe, and had similarly sized living areas. However, the record cards included were only partial record cards that did not contain the grade, physical depreciation, or condition of the properties. The PAAB also stated in its ruling that the handwritten notes on the cards regarding the depreciation value should not be given weight or credibility as the notes lacked foundation. The assessed values of these dwellings were $23,330, $35,580, $38,740, and $47,030.

The county assessor provided the Local Board with a list of properties he claimed to be comparable. The document does not identify whether these properties are located in or around Kingsley. The four comparable properties were classified as rural residential and were recently sold. The sale values of these properties were $54,900, $85,000, $126,000, and $125,000. The assessed values of the building on these properties were $28,420, $51,270, $74,960, and $111,420 respectively. The PAAB noted the comparable properties listed by the county assessor had different conditions, grades, and physical depreciations from each other and the property at issue.

When reviewing whether the Hamman property was over assessed, the PAAB used the assessed values of the dwellings of the comparable properties submitted by the county assessor rather than the sale prices of the properties. It claimed that because an agricultural dwelling has to be valued separately from the land, using the sale price of the property as a whole would be inappropriate. The PAAB also specifically noted it took the assessed values of Hamman's comparable properties into account when determining whether the property was over assessed. The PAAB concluded based on the preponderance of evidence that Hamman's property was over assessed. It reduced the value of the Hamman agricultural dwelling from $72,180 to $60,000.

The PAAB correctly stated that for assessment purposes the agricultural land must have a separate value from the agricultural dwelling. Iowa Code § 441.21; *see* Iowa Admin. Code r. 701-71.1(3). Case law has specifically stated the Code requires a county assessor to arrive at two appraisals, one for agricultural land and the other for the residential dwelling on that land. *Cott v. Bd. of Review of City of Ames*, 442 N.W.2d 78, 80 (Iowa 1989). The court has stated this provision of the Iowa Code was enacted because the legislature desired for all dwelling owners to be treated equally regardless of where the home is located. *Id.* However, the separate valuation of the agricultural land and the residential dwelling on that land is still intended to be accomplished without dividing the land into separate parcels for listing purposes. *Id.*

The issues this court faces on appeal are whether the PAAB properly used the comparable properties submitted by Hamman and the county assessor, and whether the PAAB had substantial evidence to find the Hamman property was over assessed.

First, this court must determine whether the PAAB properly considered the four properties submitted by Hamman and the four properties submitted by the county assessor. Evidence that does not comply with the statutory scheme for property valuation is irrelevant and

inadmissible. *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 782 (Iowa 2009). The Code first requires a property's assessment value to be determined by the fair market value based on comparable sale prices. *Dowden v. Dickinson County, Iowa, Bd. of Review*, 338 N.W.2d 719, 722 (Iowa Ct. App. 1983). Properties are comparable when they are similar or have a resemblance to the property being assessed. *Soifer*, 759 N.W.2d at 783. Factors for whether properties are comparable include the property's size, use, location, and character, while still taking the sale's nature and timing into account. *Id.* When sales of other properties are admitted, the assessed property's value must be adjusted to demonstrate the differences between the comparable property and the assessed property if those differences would distort the market value without the adjustments. *Id.* If distorting sales factors or other differences are not quantifiable to permit adjustment, the property is not comparable. *Id.*

The only evidence before the PAAB was the four assessment values of allegedly comparable properties submitted by Hamman and the four sales prices that included assessment values submitted by the county assessor. The PAAB stated the four properties submitted by Hamman did not include the grade, physical depreciation, or condition of the agricultural dwellings. The four comparable properties submitted by the county assessor did not have the sales price of the dwelling alone, and agricultural dwellings are to be given a separate assessment from agricultural land. As such, the PAAB could not use the "sales price" method to determine the assessed value of the property.

Since the market value cannot be readily established through the "sales price" method, then the PAAB could look at other uniform and recognized appraisal methods including productive and earning capacity, industrial conditions, cost, physical and functional depreciation, obsolescence and replacement cost, and all other factors that would assist in a determination of a

fair and reasonable market value. Iowa Code § 441.21(2). However, the PAAB could not focus merely on one factor when using the "other factors" test. *Id.*

The PAAB was not able to use the "sales price" method, but instead focused on the assessment values of the homes of all the properties submitted. The method the PAAB used was closely related to the sales method, but instead it looked at the assessed values rather than the market value in a fair market transaction. It did so despite knowing the properties were different than the Hamman property and knowing it could not quantify the difference between the properties and the Hamman property to adjust for that distortion. *See Dowden*, 338 N.W.2d at 723 (finding the values listed for comparable properties were mentally adjusted for deviations, but as the experts could not list what differences were made to account for oddities in the transaction price, these properties could not be used as comparable properties).

The properties submitted by Hamman did not contain the grade, physical depreciation, or condition of the home. The PAAB would not be able to adjust for the differences between those properties and the Hamman property without that information. The Hamman property should have had no weight in the PAAB's decision. There is simply not enough information to use those properties as indicators of the fair and reasonable market value of the Hamman property. The PAAB erred in using assessment values of other agricultural dwellings without having enough information to compare the properties pursuant to the "other factors" test.

Further, in its ruling, the PAAB stated the four properties submitted by the county assessor were not similar in grade, condition, or physical depreciation. The PAAB still used the assessed values of the residence on these properties to determine the Hamman property was over assessed. The four recently sold properties did not have a sales price on the dwelling, the properties were not necessarily within the same geographic area as the Hamman residence, and

did not have the same grade, condition, or physical depreciation as the Hamman residence. They were not similar enough to be used as comparable properties pursuant to the "sales price" method and should not have been given much weight pursuant to the "other factors" method. *Bartlett & Co. Grain v. Bd. of Review of City of Sioux City*, 253 N.W.2d 86, 93 (Iowa 1977) (agreeing with other jurisdictions that the more commonplace the property, the greater degree of similarity that should be required to establish that properties are comparable) (quoting *Gradison v. State*, 300 N.E.2d 67, 78 (Ind. 1973)).

As none of the alleged comparable properties submitted by either party were actually similar to the Hamman property, the PAAB did not have substantial evidence to determine the Hamman dwelling was over assessed. Additionally, the PAAB did not use the "sales price" method since it did not have comparable properties that had a transaction value for the residence. The PAAB was then forced to evaluate whether the Hamman residence was over assessed using the "other factors" method. The PAAB focused on the assessed values of rural residences without requiring any other similarity. As a matter of law it is questionable whether using the assessed values of properties that have recently been sold actually assists in the determination of the fair and reasonable market value as required by Iowa Code section 441.21(2). The reasoning used by the PAAB is circular. An assessed value is determined by using the fair market value in normal sales transactions. It is circular to then find the assessed value can determine the fair and reasonable market value. **The PAAB's ruling is reversed.**

D. Dwelling Component

The Local Board also claims Hamman improperly challenged the assessment of her property. Hamman claimed her property was inequitably assessed and over assessed under Iowa Code section 441.37(1)(*a*)–(*b*). Hamman only challenged the dwelling component of the

assessment rather than the overall assessment of her property. The Local Board claims a property owner is not entitled to relief unless they establish the value of the property as a whole is too high or inequitable, and the evidence presented must relate to the value of the entire property rather than merely one component.

The PAAB claims the law does not prohibit a challenge to one portion of the total assessment when the taxpayer concedes the other values are correct. It also argues that since agricultural dwellings and land are to be assessed separately, it is permissible for a taxpayer to challenge only one portion of the total assessment and to acquiesce to the other values.

In an earlier Iowa case, the court questioned whether the plaintiff was entitled to relief without demonstrating that one hundred percent of the total value was excessive or inequitable. *Deere Mfg. Co. v. Zeiner*, 247 Iowa 1364, 1369, 78 N.W.2d 527, 530 (1956). The plaintiff in that case demonstrated that the assessor had placed too high of values upon various buildings and some land, but did not attempt to show the overall assessment value was excessive or inequitable. *Id.* The court found the plaintiff's evidence establishing that certain components' values were too high was not sufficient to entitle the taxpayer to relief. *Id.* The court stated the question before it was " 'not whether the value placed upon certain constituent elements properly entering into the value of the subject of taxation is just and equitable, but whether the assessment of the subject as a whole is just and equitable.' " *Id.* 247 Iowa at 1370, 78 N.W.2d at 531 (quoting *In re Appeal of Wanamaker Philadelphia*, 63 A.2d 349, 353 (Pa. 1949) (citations omitted)).

The court reasoned that certain characteristics of the property were valued separately as an intermediate step in ascertaining the value of the property. *Id.* However, the appeal needs to challenge the overall assessment because the property itself is only given one assessment. *Id.*

The court reasoned that a plaintiff is not entitled to relief without showing the overall assessment was excessive or inequitable regardless of the manner in which the assessment was reached. *Id.* at 1375, 78 N.W.2d at 534.

In another case, the taxpayers attacked assessments claiming the assessor included the value of machinery and buildings that were no longer in existence. *White v. Bd. of Review of Polk County*, 244 N.W.2d 765, 766 (Iowa 1976). The taxpayers claimed the assessment was excessive and erroneous on the straight valuation basis. *Id.* In *White*, one of the buildings that was included in the assessments no longer existed. *Id.* at 767. The court stated the inclusion of the nonexistent item did not render the assessment void if the valuation as a whole was correct. *Id.* at 769.

In the instant case, the Local Board argues the taxpayer is not entitled to relief because there was no evidence presented that the overall assessment was incorrect, only that a portion of the assessment was incorrect. Although the analysis in *White* is helpful, it does not control in this case. In *White*, the court stated the inclusion of nonexistent buildings did not automatically void the assessment. *Id.* It did not state the plaintiff would not be entitled to relief for challenging the assessment based on the inclusion of nonexistent buildings. *Id.* The taxpayers in White presented evidence as to the whole valuation. *Id.*

The PAAB claims another case supports their conclusion that the taxpayer did not have to specifically challenge the overall assessment or present evidence concerning the overall assessment of the property. In that case, the assessed property included a beef slaughter and fabrication plant. *Excel Corp. v. Pottawattamie County Bd. of Review*, 492 N.W.2d 225, 226 (Iowa Ct. App. 1992). The court did not articulate the basis of the appeal. *Id.* at 229. The court does state the value of the land was conceded, and the parties were only arguing over the

valuation of the machinery or fixed improvements to the land. *Id.* The court did not discuss whether the taxpayer challenged the overall assessment. *Id.* Therefore, the case provides little guidance on the issue.

In Hamman's petition to the Local Board, she states her agricultural dwelling was over assessed by $44,030 and the actual value of that dwelling was $36,170. She did not give the price of the over assessment of the property as a whole or the allegedly correct assessment value for the property as a whole. Hamman only appealed the assessed value of the agricultural dwelling. She presented no evidence regarding the value of the rest of the property. Neither Hamman nor the county assessor conceded that the value of the land or improvements on the property was correct.

Deere stands for the proposition that even when one component of the assessment is wrong, a reviewing body cannot conclude the overall assessment is wrong without further evidence. If one component is found to be over assessed, the overall assessment of the property may still be correct if another component was not valued as highly as it should have been. Neither Hamman nor the county assessor presented evidence regarding the valuation of the rest of the assessed property. As the assessed value of the land was not conceded nor was evidence presented regarding the veracity of that assessment, there was not substantial evidence to support the PAAB's findings that the overall assessment of the property was excessive.

The PAAB contends that Hamman can separately challenge the assessment of the agricultural dwelling because it is required to be assessed separately by law. Iowa law specifically requires a county assessor to arrive at two values regarding agricultural property, one for agricultural land and the other for the residential dwelling on that land. *Cott*, 442 N.W.2d at 80. The intent of the legislature was to treat dwelling owners equally; however, the separate

valuation is still intended to be accomplished without dividing the land into separate parcels. *Id.* Although the county assessor is required to give a valuation of the agricultural dwelling, the taxpayer is not assessed separately for the dwelling and the land. The taxpayer is assessed for the overall property. The PAAB cannot conclude the overall assessment is incorrect even if substantial evidence supported a finding that the agricultural dwelling was over assessed because no evidence was presented that the other component of the property assessment was correct or incorrect. Therefore, the PAAB did not have substantial evidence to support its conclusion that the overall property as a whole was over assessed.

E. Remedy

Finally, the Local Board asks that the PAAB's decision be reversed rather than remanded as it is nonsensical to remand the case when substantial evidence does not exist to come to a different conclusion. The Local Board wishes this court to affirm the assessment of the Local Board.

On judicial review it would not be appropriate to reverse the decision of the PAAB and affirm the Local Board. The scope of judicial review is limited to the determination of whether the agency committed any errors of law specified in Iowa Code section 17A.19(10)(*a*)–(*n*). *IBP, Inc. v. Harpole*, 621 N.W.2d 410, 414 (Iowa 2001). The PAAB's decision was the final agency action for purposes of this appeal. Iowa Code § 441.37A(3)(*b*). Therefore, this court's review is of the PAAB rather than the Local Board. This court does not have the authority to affirm the decision of the Local Board as that entity's decision is not before the court. This case must be remanded for the agency to enter an order in compliance with this decision.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the State of Iowa Property Assessment Appeal Board's Motion to Strike is SUSTAINED, the State of Iowa

Property Assessment Appeal Board Decision is REVERSED, and this case is REMANDED with instructions.

IT IS SO ORDERED

Signed this 14th day of July, 2010.

BY THE COURT

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Duane E. Hoffmeyer
Judge, Third Judicial District of Iowa